



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes PLANNING COMMISSION

(Col. Ret.) Kenneth Dollar, Ward 2 - CHAIRMAN
Ann Watkins, Ward 1 *Carol Ann Sonnenfeld, Ward 3*
Donald Gillis, Ward 4 *Kenneth Carter, Ward 5*
Bob Kinney, Ward 6 *Stephen Diffley, Ward 7*

Tuesday, January 4, 2011

6:00 PM

City Hall Council Chambers

Stephen Diffley, Kenneth Dollar, R. W. "Bob" Kinney, Kenneth Carter, Donald Gillis, and Ann Watkins

Absent: Carol Sonnenfeld

Staff:

Brian Binzer, Development Services Director
Rusty Roth, Development Services Manager
Patsy Bryan, Secretary to the Board
Shelby Little, Urban Planner
Kyethea Clark, Urban Planner
Daniel White, City Attorney

MINUTES:

20101361 **December 1, 2010 Regular Planning Commission Meeting Minutes**

Review and Approval of the December 1, 2010 Planning Commission Meeting Minutes

This matter was Approved and Finalized

Absent: 1 - Sonnenfeld

Abstain: 1 - Watkins

OLD BUSINESS:

20101189 **Z2010-12 MRW Properties, LLC 313 Marble Mill Road**

Z2010-12 [SPECIAL LAND USE PERMIT] MRW PROPERTIES request a Special Land Use Permit for property located in Land Lot 1005, District 16, Parcel 0280, 2nd Section, Marietta, Cobb County, Georgia and being known as

313 Marble Mill Road in order to operate a vehicle towing company at this location. The property is currently zoned HI (Heavy Industrial). Ward 5.

File #20101189 (Z2010-12) for a Special Land Use Permit (SLUP) was presented by Mr. Roth. The applicant is MRW Properties and the property is located at 313 Marble Mill Road in Land Lot 10050, District 16, Parcel 0280.

The applicant, represented by Melissa Haisten, is seeking a SLUP in order to operate a vehicle towing company. Ms. Haisten described the history of the property.

The following property owners spoke in opposition:

Juanita Kilgore Carmichael, resident of the James Street Community, expressed concern about noise and the quality of life.

Joe Harden, a resident of the James Street Community since 1971, is also concerned about noise.

Ruth Eppinger, a resident who occupied one of the first homes built in the James Street Community, spoke about the cracks that have developed in her home as a result of the heavy industrial businesses in the area. She also pointed out that this use would create additional noise, unsafe environment, decrease in property values, as well as a breeding ground for rodents and mosquitoes.

Mrs. Watkins asked Mrs. Carmichael if there are any other aspects of this business, other than noise, that she is concerned with and Mrs. Carmichael expressed concern about the rodents and rats, as well as the environmental health.

Mrs. Watkins continued questioning Mrs. Carmichael as far as ideas for mitigation, any sort of techniques, anything the business at 313 Marble Mill Road could do to help with the concerns of the neighbors. Mrs. Carmichael suggested coming up with a different type of business.

Chairman Dollar made other valid comments regarding businesses in and around 313 Marble Mill Road.

Chairman Dollar questioned Mr. Binzer as to why code enforcement actions have not progressed, despite the property currently being in operation. Mr. Binzer explained that if they go to court, the judge will ask what the applicant has done to come into compliance. As long as the applicant is making progress towards compliance (i.e. application for SLUP), the judge will not take action.

Mrs. Watkins questioned Mr. Harden regarding noise and keeping unsightly vehicles stored within site line above fence.

Discussion continued about the decibel levels, vibrations, and noise.

Mrs. Watkins addressed concerns from Mrs. Eppinger regarding rodents, insects, paint fumes, and dust.

Further questioning of Mrs. Watkins uncovered problems such as cracked ceilings and vibrations in her home. Mrs. Watkins acknowledged that ruts and gullies exist from storm water drainage.

Mr. Kinney confirmed with staff that in addition to the Special Land Use Permit for towing, the only variance that needs to be addressed is for gravel parking.

Ms. Haisten returned to address the issues of concern by the neighbors.

Mrs. Watkins and Ms. Haisten discussed certain stipulations that the applicant might be willing to yield to.

Mrs. Watkins made a motion, seconded by Mr. Kinney, to recommend to City Council that the Special Land Use Permit be granted and to include the Letter of Stipulations dated November 29, 2010 from Melissa P. Haisten to Russell J. Roth, with the exception of Stipulation #1 referring to the existing Special Land Use Permit for a plastic recycling facility be excluded. In addition, the following stipulations are incorporated as a part of the approval:

- 1. Towing would be limited to normal passenger class vehicles;*
- 2. Towing intake outside the normal hours of operation would be limited to the front 2/3 (two-thirds) of the property;*
- 3. Wrecked vehicles would be stored on a paved surface with proper approved drainage runoff and filtration systems;*
- 4. Accommodations would be made to prevent any runoff into the adjacent residential area;*
- 5. Vehicle storage would not exceed the height of the fence;*
- 6. Business would not enter into any contracts with any municipalities (cities or counties).*

Motion carried 5 – 1 – 0 with Chairman Dollar opposed.

Chairman Dollar asked for a revote.

Motion carried 5 – 0 – 1 with Chairman Dollar abstaining.

A motion was made by Ann Watkins, seconded by R. W. "Bob" Kinney that this matter be Recommended for Approval as Stipulated. The motion carried by the following vote: 5 – 0 – 1

Absent: 1 - Sonnenfeld

Vote Abstain: 1 - Dollar

A 5 minute recess took place.

REZONING(S):

20101328

Z2011-01 Amanda S. Kirk 1395 Cobb Parkway North

Z2011-01 [REZONING] THE WILLIAM W. SCOGIN, JR. FAMILY INVESTMENTS, LLLP (AMANDA S. KIRK) request rezoning for property located in Land Lot 09340, District 16, Parcel 0250, 2nd Section, Marietta, Cobb County, Georgia and being known as 1395 Cobb Parkway North from CRC (Community Retail Commercial) to CRC with additional use (Community Retail Commercial with additional use). Ward 4.

File #20101328 (Z2011-01) was presented by Mr. Roth for property located in Land Lot 09340, District 16, Parcel 0250 and being known as 1395 Cobb Parkway North.

The applicant, Amanda S. Kirk, representing the William Scogin, Jr. Family Investments, LLLP, is requesting a rezoning from Community Retail Commercial (CRC) to Community Retail Commercial (CRC) with an additional use.

Ms. Kirk explained that this is a family owned building. While trying to obtain a business license, the current tenant, a custom cabinet maker, was told that this use is not allowed in the CRC category.

Ms. Kirk met with Mr. Roth and Mr. Binzer and decided to ask for a rezoning so that George Vlkov can continue to operate his business out of the warehouse.

Mr. Kinney confirmed that no changes will take place to the exterior of the building, parking, or the current appearance.

Mr. Roth explained that prior to 1998, both the city and county had GC (General Commercial) zoning categories. In 1998, the city changed all GC to CRC.

Questions continued regarding removal of sawdust, additional employees, and hours of operation.

Mr. Gillis made a motion, seconded by Mr. Kinney, to approve the request to rezone from CRC (Community Retail Commercial) to CRC with an additional use for a cabinet and furniture shop in Suite G with a stipulation to waive all Tree Protection and Landscaping requirements. The stipulation should be discontinued upon the redevelopment of the site. Motion carried 6 – 0 – 0.

A motion was made by Donald Gillis, seconded by R. W. "Bob" Kinney that this matter be Recommended for Approval as Stipulated . The motion carried by the following vote: 6 – 0 – 0

Absent: 1 - Sonnenfeld

20101329

Z2011-02 Petroleum Realty V, LLC (David Malone) 1912 Lower Roswell Road (a/k/a 1944 Lower Roswell Road)

Z2011-02 [REZONING] DAVID MALONE request rezoning for property located in Land Lot 12060, District 16, Parcel 0080, 2nd Section, Marietta, Cobb County, Georgia and being known as 1912 Lower Roswell Road from GC [General Commercial (County)] to CRC [Community Retail Commercial (City)]. Ward 6.

File #20101329 (Z2011-02) was presented by Mr. Roth for property located in Land Lot 12060, District 16, Parcel 0080 and being known as 1912 Lower Roswell Road (a/k/a 1944 Lower Roswell Road).

Petroleum Realty V, LLC and David Malone, owner of Malone's Automotive, are requesting a rezoning from General Commercial [GC (County)] to Community Retail Commercial [CRC (City)].

Mr. Malone stated that he has been in Marietta for 15 years and is in the process of leasing 1944 Lower Roswell Road for light auto service. Previously used as a Shell Gas Station, the property has been vacant for about 6 or 7 years.

Mr. Malone discussed with Mr. Kinney that he is leasing this property month to month and moved vehicles to this location. The tanks have not been removed since they are

fiberglass tanks.

According to Mr. Malone, plans are to repaint the building and give it a better appearance.

Mr. Diffley asked about specific plans for the carwash to be used as an oil change facility. Mr. Diffley also reiterated Mr. Kinney's desire to see a fence in the rear of property.

Mr. Kinney moved, seconded by Mr. Diffley, to recommend to City Council that this petition be accepted as submitted. In addition to a wooden privacy fence being constructed in the rear between the residential areas, the following variances are included in this recommendation and should be for the current developed property only, and should be discontinued upon the redevelopment of the site:

- Variance to reduce the required buffer from 40 feet to 0 feet.[Sect. 708.16 (I)]
- Variance to allow the continuance of a nonconforming pylon sign.[Sect. 714.04 (E)]
- Variance to increase the allowable impervious surface from 80% to 100%. [Sect. 708.16 (H)]
- Variance to reduce the required landscaped area from 15% to 0%. [Sect. 708.16 (H)]
- Variance to waive all Tree Protection and Landscaping requirements to allow the property remain as-is. [Section 712.08]

Motion carried 6 – 0 – 0 with stipulations

A motion was made by R. W. "Bob" Kinney, seconded by Stephen Diffley that this matter be Recommended for Approval as Stipulated . The motion carried by the following vote: 6 – 0 – 0

Absent: 1 - Sonnenfeld

ANNEXATION:

20101330

A2011-01 Petroleum Realty V, LLC (David Malone) 1912 Lower Roswell Road (a/k/a 1944 Lower Roswell Road)

A2011-01 [ANNEXATION] PETROLEUM REALTY V, LLC request annexation for property located in Land Lot 12060, District 16, Parcel 0080, and being known as 1912 Lower Roswell Road (a/k/a 1944 Lower Roswell Road), 2nd Section, Cobb County, Georgia consisting of .86 acres. Ward 6.

File #20101330 (A2011-01) was presented by Mr. Roth for property located in Land Lot 12060, District 16, Parcel 0080 and being known as 1912 Lower Roswell Road (a/k/a 1944 Lower Roswell Road).

Mr. Malone asked to incorporate the same comments for the Annexation from the rezoning presentation.

Mr. Diffley made a motion to annex subject property, seconded by Mr. Carter. Motion carried 6 – 0 – 0.

A motion was made by Stephen Diffley, seconded by Kenneth Carter, that this matter be Approved and Finalized. The motion carried by the following vote: 6 – 0 – 0

Absent: 1 - Sonnenfeld

FUTURE LAND USE:

20101331 **CA2011-01 David Malone 1912 Lower Roswell Road (a/k/a 1944 Lower Roswell Road)**

CA2011-01 [CODE AMENDMENT] DAVID MALONE in conjunction with the requested annexation of property located in Land Lot 12060, District 16, Parcel 0080, 2nd Section, Marietta, Cobb County, Georgia, the City of Marietta proposes to designate the Future Land Use of said property as CAC (Community Activity Center). Ward 6.

File #20101331 (CA2011-01) was presented by Mr. Roth for property located in Land Lot 12060, District 16, Parcel 0080 and being known as 1912 Lower Roswell Road (a/k/a 1944 Lower Roswell Road).

Mr. Malone asked to incorporate the same comments for the Future Land Use and is requesting Community Activity Center (CAC) for this property.

Mr. Kinney made a motion to approve the proposal made by the City of Marietta to designate the Future Land Use as CAC (Community Activity Center), seconded by Mrs. Watkins. Motion carried 6 – 0 – 0.

A motion was made by R. W. "Bob" Kinney, seconded by Ann Watkins, that this matter be Approved and Finalized. The motion carried by the following vote: 6 – 0 – 0

Absent: 1 - Sonnenfeld

OTHER BUSINESS:

20101252 **Personal Care Homes and Assisted Living Facilities**

Approval of an Ordinance amending the Comprehensive Development Code of the City of Marietta, Division 708.01 (B), Division 708.02 (B), Division 708.03 (B), Division 708.04 (B), Division 712.02 (B) and Division 724.02, regarding group homes and personal care homes.

File 20101252 – Mr. Roth Personal Care Homes and Assisted Living Facilities specifically in the Comprehensive Development Code of the City of Marietta, Division 708.01(B), Division 708.02(B), Division 708.03(B), Division 708.04(B), Division 712.02(B) and Division 724.02 regarding group homes and personal care homes.

Mr. Roth explained in detail the difference between personal care homes and group homes and why the change in code and definition is needed.

Mr. Roth and Mr. Diffley discussed the age requirements for such facilities.

Mr. Kinney moved to recommend to City Council that this be accepted as submitted, seconded by Mrs. Watkins. Motion carried 6 – 0 – 0.

A motion was made by R. W. "Bob" Kinney, seconded by Ann Watkins, that this matter be Approved and Finalized. The motion carried by the following vote: 6 – 0
- 0

Absent: 1 - Sonnenfeld

ADJOURNMENT:

The January 4, 2011 Planning Commission Meeting adjourned at 8:27 p.m.

Ken Dollar, Chairman

Patsy Bryan, Secretary